

Stephanie Thomas Secretary of the State

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Connecticut General Assembly Government Administration and Elections Committee Public Hearing

March 6, 2023

TESTIMONY OF SECRETARY OF THE STATE STEPHANIE THOMAS REGARDING:

- © S.B. No. 1150, An Act Concerning the Recommendations of the Risk-Limiting Audits Working Group
- © S.J. No. 35, Resolution Proposing a State Constitutional Amendment to Allow Individuals Who Have Attained the Age of Sixteen to Apply for Admission as Electors and to be so Admitted Upon Attaining the Age of Eighteen.
- © S.B. No. 389, An Act Concerning Ranked-Choice Voting
- ◎ H.B. No. 5087, An Act Concerning Ranked-Choice Voting for State and Federal Offices
- ◎ H.B. No. 5133, An Act Concerning Ranked-Choice Voting for Municipal Offices
- H.B. No. 5701, An Act Instituting Ranked-Choice Voting for Municipal, State and Federal Elections
- H.B. No. 5133, An Act Establishing a Task Force to Study Ranked Choice Voting in Certain Elections
- H.B. No. 5702, An Act Allowing Incarcerated Individuals to Vote
- H.B. No. 5714, An Act Concerning Incarcerated Individuals and Voting
- ❖ S.B. No. 1156, An Act Concerning Circulators of Nominating and Primary Petitions.
- ★ H.B. No. 6823, An Act Concerning Certification of And Casting of Ballots by Presidential Electors.
- ★ H.B. No. 6825, An Act Concerning the Appearance of Unfilled Vacancies in Candidacies on the Ballot.
- H.B. No. 6824, An Act Concerning Certain Election-Related Filings with the Superior Court.

Thank you Co-Chairs Flexer and Blumenthal, Ranking Members Sampson and Mastrofrancesco, and members of the committee for the opportunity to testify on several pieces of legislation.

S.B. No. 1150, An Act Concerning the Recommendations of the Risk-Limiting Audits Working Group

In 2021, the legislature authorized a task force to investigate and test the possibility of instituting a system of post-election risk-limiting audits. The task force has since completed their pilot program to test one or more methods of risk-limiting audits following the 2021 municipal elections and issued their report to this committee at the beginning of 2022. This legislation implements their recommendations.

Connecticut's current post-election audit procedure looks at a fixed percentage of precincts, regardless of the margin of victory in any given election. The subject matter experts who studied this matter have since advocated for risk-limiting audits as a statistically significant method of testing the accuracy of election outcomes.

• Risk-limiting audits are a type of post-election audit designed to statistically limit the risk of errors in reported election outcomes and establish confidence in the election results by counting a fixed number of ballots determined by the margin of victory in the election in order to to determine the accuracy of the election outcome to a certain level of confidence (the risk limit). This legislation proposes adopting a system of ballot comparison audits, where a Cast Vote Record is created and individual ballots are randomly selected and compared to how they were recorded in the Cast Vote Record. The number of ballots selected is determined by the margin in the particular election, so that the election outcome will be confirmed beyond a statistically significant risk limit of no more than 5%.

This system of auditing has been considered a best practice in election administration since first being implemented in Colorado in 2009. Since then, Virginia and Rhode Island have adopted full risk-limiting audits programs, with four other states implementing optional programs offered to localities. I am confident that adopting such a program here in Connecticut would not only ensure the accuracy of our election outcomes, but also provide voters with further confidence in the accuracy of our elections.

We respectfully request that the effective date for Section 12's pilot program be extended to July 1, 2025, to allow this program to be tested in the municipal election of 2025, rather than 2023. This pilot cannot be conducted, and risk limiting audits implemented, until new voting tabulators are in place.

Thank you for your consideration of this bill. I urge favorable passage with the proposed change we have provided.

S.J. No. 35, Resolution Proposing a State Constitutional Amendment to Allow Individuals Who Have Attained the Age of Sixteen to Apply for Admission as Electors and to be so Admitted Upon Attaining the Age of Eighteen.

This proposed constitutional amendment would allow sixteen year olds to "pre-register" to vote so that once they turn eighteen, they are automatically registered and eligible to cast a ballot.

I strongly believe that one of the most important duties of the Office of the Secretary of the State is to educate and inform the public, particularly in a way that encourages voters to become engaged in the civic process and public service. And there is no more important demographic we must engage than our youth. They are the next generation of leaders and it is our responsibility to ensure that they have the necessary tools to own the future. By allowing a younger group of future voters to take hold of their stake of our democracy at a younger age, we are giving them a greater opportunity to engage for a lifetime.

Currently, fifteen states and Washington D.C., including California, Florida, Massachusetts, and Utah, allow sixteen year olds to pre-register to vote. A number of studies out of these states have shown that pre-registration has a concrete and positive impact on youth turnout in elections.

Enacting a similar program in Connecticut would allow us to utilize automatic voter registration at the Department of Motor Vehicles, with regards to sixteen year olds who are obtaining learner's permits or driver's licenses. This would allow every teenager getting their permit or license to easily and conveniently pre-register to vote while they are already interacting with our state government.

This is crucial because it is clear that when we give our youth the tools to become engaged, they are likely to remain engaged and be registered voters for the rest of their lives.

I urge favorable passage of this resolution so that it may be presented to the voters in 2024.

- ⊗ S.B. No. 389, An Act Concerning Ranked-Choice Voting
- ◎ H.B. No. 5087, An Act Concerning Ranked-Choice Voting for State and Federal Offices
- H.B. No. 5133, An Act Concerning Ranked-Choice Voting for Municipal Offices
- H.B. No. 5701, An Act Instituting Ranked-Choice Voting for Municipal, State and Federal Elections
- H.B. No. 5133, An Act Establishing a Task Force to Study Ranked Choice Voting in Certain Elections

Four of the pieces of legislation at hand propose implementing a ranked-choice voting system of elections for various elections as well as one that authorizes a study on the topic. Rather than commenting on the merits of each bill, I would instead like to outline some of the challenges ranked-choice voting would impose given Connecticut's current election infrastructure.

Ranked-choice voting can not be implemented on our existing equipment. Connecticut's
existing optical scan tabulators are simply not capable of doing ranked-choice voting

computations. Such a program would require completely new infrastructure able to administer ranked-choice voting.

- Given Connecticut's ballot access laws, there are serious questions as to how ranked-choice voting would affect ballot design. There is not a single jurisdiction in the United States that does both multi-line fusion voting and ranked-choice voting. Connecticut's current system of fusion voting would mean that each race, with all of the means of ranking, would take up more space, or even an entire side of a ballot. For this reason, ballots would be multiple pages long, with races on both the front and the back sides. We have already witnessed the difficulty in getting voters to flip to even the backside of a single-page ballot. When the ballot gets longer, the drop-off gets larger. It is conceivable that if this reform were enacted, a large percentage of voters would fail to cast a voter in races further down the ballot, such as state senator and state representative. These logistical and educational challenges for voters pose a significant roadblock in adopting ranked-choice voting here in Connecticut. I have attached a sample ranked choice ballot to this testimony, using Bethlehem Connecticut's 2022 ballot as a base, and borrowing instruction and layout from Maine.
- I would like to caution legislators that ranked-choice voting may not be the panacea to our broken politics that you are looking for. Aside from the significant implementation challenges Connecticut would face, there are other factors unique to our state that would make this policy especially problematic, including our minor party ballot access rules, Town Committee structure, and CEP funding regulations. So while ranked-choice voting is a unique electoral reform, it may not be what will work best for Connecticut as we explore our electoral future.

I urge this committee to carefully examine all potential roadblocks before further considering the proposals at hand. Our office would be happy to work with the proponents of the study bill to create language that will adequately study the issue.

- H.B. No. 5702, An Act Allowing Incarcerated Individuals to Vote
- H.B. No. 5714, An Act Concerning Incarcerated Individuals and Voting

Both of these pieces of legislation would expand voting rights to currently incarcerated Connecticut residents. While it is crucial we ensure the right to vote is accessible, these proposals pose some serious logistical challenges, some of which already exist for many incarcerated people who currently have the right to vote under existing law.

According to recent Department of Corrections statistics, of the approximately ten thousand people incarcerated in Connecticut, just over a third have not been convicted of a crime and are being held in pretrial detention with their voting rights intact. Furthermore, any people incarcerated for misdemeanors in Connecticut also remain eligible to vote. But despite this, votes from eligible incarcerated potential voters are incredibly uncommon.

It is not feasible to establish an in-person polling location inside each prison facility. People incarcerated in Connecticut's prisons come from all 169 municipalities and those who were registered and are in pretrial detention or are incarcerated for a misdemeanor remain registered in the municipality of their last residence. As a result, the current procedure for incarcerated potential voters is to cast an absentee ballot. But this too poses challenges. Because the absentee ballot applications and ballots must travel through the prison mail system, their delivery speeds are incredibly slow. Oftentimes this means that by the time the incarcerated voter has received their ballot or the town clerk receives their completed ballot, the election may have already passed. Additionally, due to the constant and often short-notice movement of incarcerated people between facilities, ballots may never make it back to the incarcerated voter at all.

This is not to mention other challenges incarcerated people may face when voting, such as potential coercion from staff or other incarcerated people. Additionally, absentee ballot applications require you to sign an attestation of your eligibility under penalty of law. Given that many people being held in pretrial detention are doing their best to remain in the good graces of the law, the risk of error in signing this application may appear more dangerous for them than it is worth.

While the merits of this bill are well-intended, I first urge you to address the many practical challenges currently eligible incarcerated people face when attempting to cast a ballot. We are ready and willing to work with interested parties to provide solutions to some of these issues which would also serve as the foundation of a broader program.

© S.B. No. 1156, An Act Concerning Circulators of Nominating and Primary Petitions.

This legislation makes changes to Title 9 of the general statutes in order to reflect the requirements of a 2016 federal district court ruling regarding who is eligible to circulate nominating and primary petitions.

The language changes include expanding eligibility to adult U.S. citizens who are not residents of the state as well as other technical language changes that resulted from the decision.

Following the holding in *Libertarian Party v. Merrill (D. Conn. Jan 26, 2016)*, the Office of the Secretary of the State adjusted our procedures to comply with the federal judge's decision and allow residents of other states to circulate petitions. This legislation codifies those changes into statute.

I urge favorable passage of this bill.

H.B. No. 6823, An Act Concerning Certification of And Casting of Ballots by Presidential Electors.

This legislation makes technical changes to Title 9 of the general statutes in order to reflect changes required by the federal government's recent passage of The Electoral Count Reform Act of 2022.

These necessary changes include specifying that the Secretary of the State is the state executive for purposes of certifying the state's appointment of presidential electors and moving the required meeting of the presidential electors later by one day.

I urge favorable passage of this bill.

 H.B. No. 6825, An Act Concerning the Appearance of Unfilled Vacancies in Candidacies on the Ballot.

This legislation replaces language in statute that requires election officials to adhere blank stickers to ballots to cover the name of a candidate that has withdrawn from the election after the ballots had already been printed. This change would require officials to obscure the candidate name, without requiring that stickers be used.

The prescription of a blank sticker is a statutory remnant of the days of mechanical lever voting machines. Today, Connecticut utilizes optical scan tabulators which require particular dimensions and paper weights for ballots to be accepted and properly scanned. Connecticut's tabulators, as well as any optical scan tabulator on the market, cannot process ballots that have an additional sticker affixed.

If stickers are placed on ballots, every race on that ballot must be hand-counted. For example, in the 2022 Republican Secretary of the State primary, a candidate withdrew his candidacy after the ballots had already been printed. Had a sticker been placed on the ballot to cover the candidate's name instead of obscuring that name with a marker, every ballot in the Republican primary with that candidate would have had to have been hand-counted for every race on the ballot. Because this was a statewide race, every Republican ballot in the state, all 93,665 of them across Connecticut's 169 towns, would have had to have been hand-counted for all races - not just for Secretary of the State, but also for United States Senate, the fourth congressional district, and every state representative and state senate primary.

To avoid this, the Office of the Secretary of the State interpreted this statute in 2010 to allow election workers to black-out the name of the withdrawn candidate with a marker, in order to avoid the absurd result of a hand count in every race on the ballot with the withdrawn candidate (the interpretation is attached to this testimony). This legislation would codify that interpretation into statute.

I urge favorable passage of this bill.

• H.B. No. 6824, An Act Concerning Certain Election-Related Filings with the Superior Court.

This legislation would require for any election-related challenge under Title 9 of the Connecticut General Statutes to be brought in Hartford Superior Court.

As the administrator of elections in Connecticut, the Office of the Secretary of the State serves as the defendant for legal challenges under Title 9. Our office currently employs two and a half attorneys in our elections division, with one or more of them being required to appear in court whenever a case arises.

Given the recent increase in challenges to election law, our office's small legal team has often found themselves tied up in courtrooms across the state, unable to tend to day-to-day matters in the office. When this happens, our elections division struggles to function.

For example, during 2022 there was a post-election challenge to a primary in Bridgeport lasting roughly two weeks. This meant that for this period, an attorney was sitting in court across the state while our elections division was reduced to one and a half elections attorneys in the crucial lead-up to the general election. Another example deals with court actions filed on Election Day. If more than one of those challenges is filed on the same election day, in different courts in different parts of the state, our office will be without legal staff to deal with the operational matters of election administration.

This change would require election-related challenges to be brought in Hartford, allowing our attorneys to tend to both cases before the court and day-to-day office matters with ease. Were this venue change to pass, our elections division would be able to function at full capacity every day, allowing for our staff to more promptly respond to the needs of voters, candidates, and municipal officials. Furthermore, having election-related claims to all come to one court will allow judges in the court to develop experience/expertise in an otherwise pretty obscure area of law.

Given the small size of our state, I am confident that this change would not prejudice challengers. Additionally, as the capital city and central location of our state government, it is not unprecedented for residents to be required to tend to business in Hartford, including to testify in person before the legislature.

I urge favorable passage of this bill to allow our office to function more efficiently.

Thank you for your time and I look forward to any questions you may have.

Thank you,

Stephanie Thomas

Secretary of the State of Connecticut

Any Town, Connectic

State Election

Rank Choice Sample Bal

Congressional District: 5
Senatorial District: 30
Assembly District: 66

3rd Choice

4th Choice

5th Choice

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To vote, fill in the oval like this

To rank your candidate thoices, fill in the oval:

 In the 1st column for your 1st choice candidate.

 In the 2nd column for your 2nd choice candidate, and so on.

Continue until you have ranked as many or as few candidates as you like.

Fill in no more than one oval for each candidate or column.

candidate, write the person's name in the write-in space and fill in the oval for the ranking of your choice.

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Governor and Lieutenant Governor	Lamont, Ned and Bysiewicz, Susan Democratic Party	Stefanowski, Bob and Devlin, Laura Republican Party	Lamont, Ned and Bysiewicz, Susan Griebel Frank for CT Party	Hotaling, Robert and Beckett, Stewart "Chip" Independent Party	Lamont, Ned and Bysiewicz, Susan Working Families Party	Write-in Votes
1st Choice	0	0	0	0	0	0
2nd Choice	0	0	0	0	0	0
3rd Choice	0	0	0	0	0	0
4th Choice	0	0	0	0	0	0
5th Choice	0	0	0	0	0	0
6th Choice						

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	Write-in Votes	Blumenthal, Richard Independent Party	Levy, Leora R. Republican Party	Blumenthal, Richard Democratic Party	United States Senator
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	0	0	0	0	2nd Choice
	0	0	0	0	3rd Choice
		0		0	4th Choice
	Hayes, Jahana Working Families Party	Logan, George Independent Party	Logan, George Republican Party	Hayes, Jahana Democratic Party	Representative in Congress
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Any Town, Connecticut

State Election

Rank Choice Sample Bal

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Thomas,
Stephanie
Working Families I

Party

Jennings, Cynthia R. Independent Pa

Fill in no more than one oval for each candidate or column.

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Party

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Any Town, Connectic

State Electio

Rank Choice Sample Ba

Congressional District: 5
Senatorial District: 30
Assembly District: 66

5th Choice

6th Choice

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Treasurer	1st Choice 2nd Choice		3rd Choice	4th Choice	5th Choice	6th Choice	Comptroller	1st Choice	2nd Choice	3rd Choice	4th Choice	5th Choice	
Russell, Erick Democratic Party		0	0	0	0		Scanlon, Sean Democratic Party	0	0		0		Tong, William Democratic
Arora, Harry Republican Party		0	0	0	0		Fay, Mary Republican Party	0	0	0	0	0	Korc Jess Repub
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Any Town, Connecticut

State Election

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To rank a Write-in candidate, write the person's name in the write-in space and fill in the oval for the ranking of your choice.

Write-in Votes	Calabrese, Domenick N. Republican Party	Judge of Probate
	0	1st Choice
	0	2nd Choice